

~~CONFIDENTIAL~~
**Before the
Federal Communications Commission**
Washington, D.C. 20554

FCC 03M-31
02524

In the Matter of)	EB Docket No. 03-96
)	
NOS Communications, Inc.,)	File No EB-02-TC-119
Affinity Network Incorporated and)	
NOSVA Limited Partnership)	NAL/Acct No. 200332170003
)	
Order to Show Cause and)	FRN 0004942538
Notice of Opportunity for Hearing)	

MEMORANDUM OPINION AND ORDER

Issued August 14, 2003

Released: August 18, 2003

1. Under consideration are (a) a Joint Motion for Confidential Treatment of Objections and Responses to Enforcement Bureau's First Set of Interrogatories, filed July 1, 2003, by Affinity Network Incorporated, NOSVA Limited Partnership, and NOS Communications, Inc (collectively "Movants"), (b) a Joint Motion for Confidential Treatment of Responses to Enforcement Bureau's *First and Second Requests for Production of Documents*, filed July 29, 2003, by Movants; and (c) Enforcement Bureau's Opposition to Joint Motion for Confidential Treatment, filed August 4, 2003, by the Enforcement Bureau ("Bureau")

2 In their July 1st Joint Motion, Movants request that their responses to the Bureau's First Set of Interrogatories be treated as confidential information not routinely made available to the public In their July 29th Joint Motion, Movants request that their response to the Bureau's First and Second Requests for Production of Documents be treated as confidential business information not routinely made available to the public In support of both Joint Motions, Movants contend that a large portion of their responses contain personnel information, and that they believe that their employees' privacy should be protected Movants also argue that the material disclosed contains commercially sensitive information which, if released to a competitor or potential competitor, would allow such competitor to compete unfairly against them and leave Movants at a competitive disadvantage The Bureau does not object to a grant of the July 1st Joint Motion, but does oppose the July 29th Joint Motion

3 Both of the Joint Motions will be denied. Section 0.459 of the Commission's Rules does not contemplate the grant of blanket motions for confidentiality such as those filed by Movants Thus, Section 0.459(b) of the Rules expressly requires that a request for confidential treatment identify, *inter alia*, "the specific information for which confidential treatment is sought," and contain a detailed showing of the reasons the request should be granted, including "the degree to which the information is commercial or financial, or contains a trade secret or is privileged," and an "[e]xplanation of how disclosure of the information could result in substantial competitive harm "

4 The Joint Motions do not comply with these stringent requirements. They neither identify the specific pieces of information and documents for which confidential treatment is sought, nor do they provide the requisite showing of a basis for such treatment for each piece of information and document. Movants' general assertion that some of the information and documents contain personnel or commercially sensitive information does not satisfy the clear requirements of

Section 0 459(b) Consequently, Movants have not demonstrated that confidential treatment is warranted¹

Accordingly, IT IS ORDERED that the Joint Motion for Confidential Treatment of Objections and Responses to Enforcement Bureau's First Set of Interrogatories, filed by Movants on July 1, 2003, IS DENIED

IT IS FURTHER ORDERED that the Joint Motion for Confidential Treatment of Responses to Enforcement Bureau's First and Second Requests for Production of Documents, filed by Movants on July 29, 2003, IS DENIED

FEDERAL COMMUNICATIONS COMMISSION

A handwritten signature in black ink, appearing to read "Arthur I. Steinberg". The signature is fluid and cursive, with the first name "Arthur" and last name "Steinberg" clearly distinguishable.

Arthur I. Steinberg
Administrative Law Judge

¹ In accordance with the Presiding Judge's instructions at the prehearing conference (Tr 21), counsel for the parties should attempt to reach an item-by-item, document-by-document, agreement on the questions raised in the Joint Motions before seeking any further rulings on these matters